

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.440 OF 2005

IN

SUMMARY SUIT NO.3207 OF 2003

M/s.Aluminium Enterprises ... Plaintiff.

vs.

M/s.Sam Metals. Defendant.

Mr.Sunil Pareira i/b. Legal Associates, for Plaintiff.

Mr.J.S.Shah, for Defendant in support.

CORAM: D.K.DESHMUKH,J.

DATED: 17th March,, 2006

P.C.:-

By consent of parties, the notice of motion is disposed of in the following terms:-

1. The order dated 19.1.2005 passed in Summons for Judgment no.79 of 2004 is set aside. The summons for judgment no.79 of 2004 is restored to file for being disposed of in accordance with law,

subject to following conditions:-

- (i) Within a period of four weeks from today, the defendant with due notice to the plaintiff deposits the entire decretal amount in this Court and within one week of depositing the amount, serve copy of its reply to the summons for judgment on the plaintiff.
- (ii) The Prothonotary and Senior Master of this Court shall permit the plaintiff, on the amount being deposited, to withdraw the amount upon filing undertaking to this Court undertaking to re-deposit the amount, if so directed by this Court and on such terms and conditions as may be directed by this Court.
- (iii) If the amount is not deposited by the plaintiff within the aforesaid period, this notice of motion shall be treated as dismissed.
- (iv) In case the amount is deposited and the reply is filed, the Office shall place Summons for Judgment for hearing and decision before the appropriate Court.
